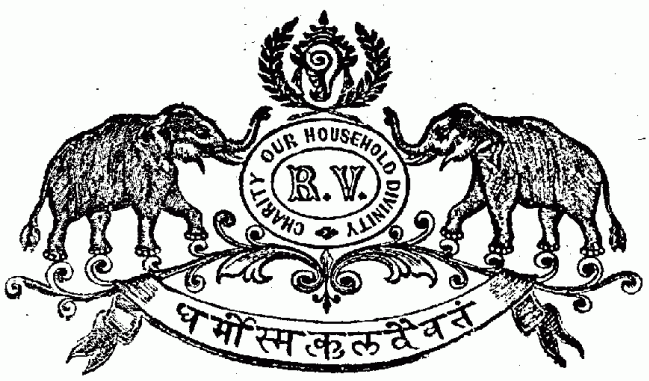
TRAVANCORE GOVERNMENT GAZETTE SUPPLEMENT.

TUESDAY 2nd April 1895.



Abstract Proceedings of the Travancore Legislative Council.

An extraordinary meeting of the Council was held in the Dewan's room, Public Offices, at 3 P. M. on Saturday the 30th March 1895.

PRESENT :—

The Dewan ... ... *Presiding.*
M. R. Ry. K. Krishnaswamy Rao Avergal.
M. R. Ry. V. Nagam Iyer Avergal.
Mr. O. H. Bensley.
M. R. Ry. P. Thanu Pillay Avergal.
M. R. Ry. R. Ramanatha Rao Avergal.
M. R. Ry. A. M. Muthunayagom Pillay Avergal.

Papers Circulated.

In the absence of Mr. Watts, Secretary to the Council, Mr. Thanu Pillay acted for him. He presented a memo of amendments to the Registration Bill sent in by Mr. Krishnaswamy Rao. As copies of the same were previously furnished to the members, it was taken as read.

BILL TO REPEAL THE POLICE SUPERANNUATION REGULATION, 1060.

With reference to the discussion at the last meeting, the President made a declaration that His Highness' Government are prepared to allow the members of the Force, who have been contributing to the Superannuation Fund and who do not at present come under the General Service Pension and Gratuity Rules, the option of continuing under the Superannuation Fund Rules if they elect to do so, the election being duly intimated within a period to be prescribed by Government. These policemen will, further, be exempted from contribution to the Fund from and after the date on which the Bill becomes law.

Thereupon, the Bill was taken up for consideration and its principle was unanimously affirmed, and it was resolved that the Bill be read again on a future day of which previous notice shall be given.

REGISTRATION BILL.

Mr. Krishnaswamy Rao proposed :—

"Insert the words 'with Our sanction' between the phrases 'Our territories shall' and 'be divided' in the first line of section 5, and substitute the word 'such' for 'Our' in the third line (first para)."

Mr. Muthunayagom Pillay seconded the motion.

Carried.

Mr. Krishnaswamy Rao proposed :—

"Add to para 2 of section 9 the following sentence 'and the number of pages in each book shall be certified on the title-page by the officer by whom such book is kept, after the close of the year to which such book relates.'"

He said :—"The practice in Travancore is to supply the Registration offices with loose sheets numbered in the Huzur Registrar's office. These sheets, after the

LIBRARY ARCHIVES Kerala Legislative Assembly

copies of registered documents are transcribed on them, are bound together annually. The advantage of the present practice is that separate books may be kept for each year without the unnecessary wastage of stationery, which would often be the result if bound books are supplied, in the beginning of the year, with a specified number of pages; a precise estimate of the number of sheets that each Registration office would require not being possible. The retention of the present practice is therefore considered advisable. But as an additional precaution against the subsequent fraudulent introduction of new sheets, it is proposed that, after the close of each year when the transcribed loose sheets are bound together, the Registrar should certify on the title-page the number of the pages each book contains."

Mr. Thanu Pillay seconded the motion.

Carried.

Mr. Krishnaswamy Rao proposed :—

"Add as clause 6 to the proviso to section 10 the following, similar to clause (*n*) under section 17 of the British Registration Act, as amended by Act VII of 1886. 'Any endorsement on a mortgage deed acknowledging the payment of the whole or any part of the mortgage money and any other receipt for payment of money due under a mortgage, when the receipt does not purport to extinguish the mortgage.'

He said:—"The usual mode of acknowledging payment in part or whole, made towards the discharge of a debt secured by a hypothecation or mortgage, is to endorse such payment on the document itself. In very few cases, (i. e.) where the creditor is living at a distance from the place where the debtor lives, receipts are also obtained. The endorsements and receipts require registration if they are to be used as evidence. But according to the law of evidence, even a payment evidenced by a document legally inadmissible may be proved by independent oral evidence. If the payment is proved, the debt and with it the collateral security in the form of hypothecation or mortgage are discharged. In other words, the non-registration of the endorsement or receipt does not stand in the way of proving payment or discharge by independent oral evidence. The object of the amendment proposed, is simply to make the unregistered endorsements and receipts admissible in evidence, as this step will facilitate the proof of payments by the *direct* evidence of such endorsements and receipts. A debt is often discharged by a number of instalments. If, at each time a payment is made, the parties are required to secure a registered voucher for the same, they will be put to great expense, loss and inconvenience. As matters now stand, no endorsement is ever registered and the registration of receipts is very rare. The loss of revenue to Government in the shape of registration fees on these documents would, I believe, be very small. Considering the great loss and inconvenience to which the public will be put by being required to register these vouchers for payment, often at stations far away from their homes and places of business, the possible sacrifice of a small amount of revenue involved in the passing of this amendment should not be allowed to stand in the way of granting the much-needed relief to the parties. It may be said that those, who intend to deal with the debtor, will have no means of knowing, by reference to the registry of documents, whether a particular encumbrance has been discharged, if the acknowledgements and receipts are not registered. It will be the duty of the applicant for a loan to satisfy his would-be creditor that there are no encumbrances on the property offered as security. The former can easily do this by producing the mortgage deed with the endorsement of discharge thereon or the receipts, as the case may be, and the latter also can ascertain from the person who once held the encumbrance whether it was discharged. Those who deal in good faith will find no difficulty in ascertaining the real truth and protecting their interests. No human law could be expected to guard, under all circumstances, the interests of a person who is culpably negligent."

Mr. Ramanatha Rao seconded the motion.

After some discussion, the Council adjourned and it was resolved that the Bill be taken up again at another meeting.

SHUNGRASOOBYER,
President.

LIBRARY ARCHIVES Kerala Legislative Assembly